

**Kentucky Office of Insurance
Review Requirements Checklist**

Motor Vehicle Extended Warranty Reimbursement Insurance

REVIEW REQUIREMENTS	REFERENCE	COMMENTS
Statutory definitions	KRS 304.5-070(1)(p) and 806 KAR 5:050	This checklist relates to the policies sold by an insurer to dealers or third party warranty companies to assure their contractual performance under motor vehicle extended warranty contracts. There is a section in this checklist related to the requirements for the extended warranty contract.
FORMS		
Advisory Organizations and Forms Providers		
Adopting by reference, Blanket reference or Filing authorization	KRS 304.14-120, 806 KAR 14:006, Bulletin 2001-3	When an insurer chooses to adopt one or more specific filings of an AO or FP, it shall do so in accordance with the usual filing procedures and shall clearly identify which filing(s) it is adopting. Reference to items must always be made using the AO or FP filing reference number, not the circular or form number. Adoptions of items released more than 2 years prior must include copies of the items being adopted for review for current compliance. When an insurer chooses to adopt ALL of the policy forms of an AO or FP, it may either provide written authorization to AO or FP, who must in turn file the authorization with the department, or the insurer must file written notice of "blanket reference adoption" with the department that it is adopting by reference all of the current and future policy forms filed by the AO or FP.
Delaying adoption or non-adoption	KRS 304.14-120, 806 KAR 14:006, Bulletin 2001-3	When an insurer has previously adopted all an AO or FP's forms and chooses to delay the effective date of a new release, the insurer may submit a letter and specify an adoption date within 6 months of the advisory effective dates. A second letter may be submitted with a new date within one year from the original advisory effective date. If the insurer will not adopt within one year, a complete filing is required to non-adopt. Insurers will not be permitted to delay adoption or non-adopt releases bringing forms into compliance without making similar independent changes bringing their forms into compliance.
Applications		
Need not be filed unless part of policy	KRS 304.14-020, KRS 304.14-120	Applications filed will be approved or disapproved as the law requires. Those forming a part of the policy must comply with all of the laws related to forms.
Fraud notice	KRS 304.47-030	All applications and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance containing any materially false information or conceals, for the purpose of misleading, information concerning any fact material thereto commits a fraudulent act, which is a crime."
Warranties prohibited	KRS 304.14-110	Statements in applications are representations, not warranties. They shall not prevent recovery under the contract unless they are fraudulent, material to the acceptance of the risk, or the insurer would not have issued at the same premium rate or policy limits.
Arbitration		
Mandatory binding arbitration is prohibited	KY Constitution Section 14, KRS 417.050	The parties may agree to binding arbitration after the dispute arises. Nonbinding arbitration provisions are permitted. Appraisal clauses are permitted.
Cancellation & Nonrenewal		
Reasons permitted for cancellation	KRS 304.20-310(2) and 330, KRS 304.14-030	Mid-term cancellations of policies in force more than 60 days can only occur for one or more of seven reasons: <ul style="list-style-type: none"> • Non-payment of premium • Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured. • Discovery of willful or reckless acts or omissions on the part of the named insured that increase any hazard insured against. • Occurrence of a change in the risk that substantially increases any hazard insured against. • Violation of local fire, health, safety, building or construction regulation or ordinance with respect to any insured property. • The insurer is unable to reinsure the risk. • Determination by the commissioner that the continuation of the policy would place the insurer in violation of the KY insurance code or regulations of the commissioner.
Notices of cancellation and nonrenewal	KRS 304.20-310 and 320, 806 KAR 20:010,	14 days in advance of effective date of cancellation if for non-payment of premium or if policy in force 60 days or less. 75 days notice for nonrenewal and all other cancellations. Termination is a cancellation or nonrenewal of coverage in whole or in part. Movement between companies is a termination and must be given 75 day notice. Specific reason(s) must be given in the notices.

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Declination or termination prohibited	KRS 304.20-310(3) and (4) and 340, KRS 304.12-085	The declination or termination by an insurer or agent is prohibited if the declination or termination is based solely upon the: <ul style="list-style-type: none"> • Race, color, religion, nationality, national origin, ethnic group, age, sex or marital status of the applicant or named insured. • Lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer which limits its market to one lawful occupation or profession or to several related lawful occupations or professions or to an insurer that does not provide the kind of insurance sought by the applicant. • Fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured • Fact that the applicant or named insured previously obtained insurance through a residual market mechanism. • Fact that the insured has previously obtained property or casualty insurance from a carrier providing nonstandard coverage; OR • Fact that the insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.
Notice of renewal	KRS 304.20-035	Must give 30 day notice of renewal or 7 days for a policy period of less than 30 days.
15 day notice of policy expiration	KRS 304.20-320(3)(c)	When a policy terminates because the renewal premium was not received on or before the due date, the insurer shall mail a notice within 15 days stating that the policy was not renewed. Notice shall include the date on which the coverage ceased to exist.
Policy period defined	KRS 304.20-310	Policy periods less than 6 (six) months will be considered to be 6 (six) months and policies without an expiration date will be considered to be 1 (one) year.
Contents of Policies and other forms		
Required policy contents	KRS 304.14-150	Every policy shall specify: <ul style="list-style-type: none"> • The names of the parties to the contract • The subject of the insurance • The risks insured against • The time when the insurance thereunder takes effect and the period during which the insurance is to continue • The premium • The conditions pertaining to the insurance • Benefits payable
“Cut through” language required	KRS 304.5-070(1)(p)	Extended warranty consumer considered to be policyholder of insurer when the maker is unable to perform its duties.
Ambiguous, inconsistent, misleading language prohibited, and substantial legibility required	KRS 304.14-130 (1)(b)(c)	Forms shall not: (1) contain any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract or (2) contain any title, heading, or indication which is misleading, or be printed in a size of type or manner of reproduction so as to be substantially illegible.
English language requirement	KRS 304.14-435	All policy forms filed with the Department and any other insurance policy or claim-related information, shall be written in the English language.
Agreements part of the contract	KRS 304.14-180	Agreements in conflict with, modifying, or extending the contract must be made part of the policy.
Blank endorsements are prohibited	KRS 304.14-120, 806 KAR 14:006, Memo 12-15-95	Endorsements containing blanks where the policy may be amended are not permitted, because all policy language, terms and conditions, etc. must be submitted for prior approval. We will, however, accept a form with the following stipulations: <ul style="list-style-type: none"> • Underwriting rule pages showing the use of the endorsement must accompany the endorsement filing; • A disclaimer must be in a prominent position on the endorsement indicating, “This endorsement will not be used (a) to impede, restrict, amend or otherwise revise any provisions, exclusions, conditions or other terms of the policy to which it is attached or (b) as a renewal certificate;” AND • The endorsement must include a signature and date line for the insured’s acknowledgement. The only other way the form will be accepted is where the numbered form lists all possible changes for which it will be used and is approved by the Department. The form may be computer generated and only print out the change(s) necessary for a particular insured; however, all changes that may at any time be used must be filed and approved before use of the form.
Conformity clauses	KRS 304.14-130 (1)(a)	Forms shall not be approved if they are in any respect in violation of or do not comply with KY law. The presence of a conformity clause will not bring about approval of otherwise non-compliant policy provisions.
Grouping for preferential	806 KAR 14:090	The grouping of persons or risks for preferential treatment in insurance rates or forms is prohibited unless filed and approved.

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Group certificates	806 KAR 14:060	Group certificates must be filed and approved.
Certificates issued to third parties	806 KAR 14:100	Must be filed for approval before use, may not be modified without prior approval, and shall include the following or similar statement: "This certificate or memorandum of insurance neither affirmatively nor negatively amends, extends, or alters the coverage afforded by policy number _____ issued by _____".
Policies may be assignable	KRS 304.14-250	A policy may be assignable or not assignable as provided by its terms.
Jurisdiction of courts	KRS 304.14-370	No conditions in policies may limit the jurisdiction of Kentucky courts.
Venue of suit against insurers	KRS 304.14-380	Suit upon causes of action arising within this state against an insurer upon an insurance contract shall be brought in the county where the cause of action arose or in the county where the policyholder instituting the action resides.
Limitation of suits against insurer not less than one year	KRS 304.14-370	No conditions in policies may limit the time for commencing actions against insurers for a period of less than one year.
DIVIDEND PLANS		
Dividends payable to individual members	KRS 304.14-290	Every insurer, issuing participating policies, shall pay dividends, unused premium refunds or savings distribution on account of any such policy only to the real party in interest entitled.
Dividend plans filings, participation	806 KAR 14:110	<ul style="list-style-type: none"> • Insurer must identify and group policyholders contributing to such savings into specific classifications. • Insurer must file dividend plans in "same manner as a rate filing" • Cannot propose both participating and nonparticipating policies for the same class of risk. • Plan must be made available to all insureds meeting the eligibility requirements. • Agents licensed by one or more companies of a group must also be licensed by the company within such group authorized to write dividend plans, if such agent does not write such participating policies. • Initial filing must contain either satisfactory evidence of proper specific charter (defined in KRS 304.3-050), authority to issue participating policies, or satisfactory evidence that the laws of its domicile provide that it may issue policies entitled to participate in the earnings of the insurer through dividends. • Filing must also contain proposed policy provisions or proposed policy endorsement form for payment of dividends, which must also provide that all such dividends must be paid directly to the insured. • Dividends must be paid only out of that part of the surplus funds derived from any realized net profits from insurer's business. • Brochures and advertising materials must affirmatively and clearly set forth that dividends are not guaranteed and that all policyholders are eligible for the dividend program whether or not they are members of, or affiliated with, any association.
Form Filing Standards		
Prior approval	KRS 304.14-120	No policy form, application made a part of the policy, rider, endorsement, certificate, etc. shall be delivered until filed and approved by the commissioner
Forms disapproved or withdrawn	KRS 304.14-120 and 130(2) Bulletin 2001-3	Disapproved filings require a new filing submitted with appropriate fees and forms. The insurer shall not use in this state any form after disapproval or withdrawal of approval.
Filing document set	KRS 304.14-120, 806 KAR 14:006, Bulletin 2001-3	<p>Filings must be submitted with two (2) full document sets and three (3) transmittal documents, per insurer (except where group filing is being made), per line of insurance. Each document set must contain the following properly completed forms and information:</p> <ul style="list-style-type: none"> • F-1A, P&C, per insurer (except only one is need per group filing), per line of insurance • F-1G, P&C, where group filing is being made • The company's transmittal document setting forth the changes • Synopsis Form S-2 • F-2 P&C (Forms Index Sheet) properly completed for each column. Forms must be filed separately from rates and rules. • The company's documents that are being revised/submitted <p>Each filing must also contain the proper filing fees per company per line of insurance and a self-addressed, stamped envelope. Once a filing is acted upon by the department, it may be amended only by submitting a complete new filing.</p>
Fees collected in advance	KRS 304.4-010	Fees collected in advance or within 15 days of electronic submission.
Retaliatory provision	KRS 304.3-270	When fees, taxes, fines, etc. charged by the state of domicile are in excess of Kentucky fees, then the domicile state's fees apply.
Liberalization Clause		

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Liberalization	KRS 304.14-180, 806 KAR 14:050	If additional benefits are afforded to policyholders of an insurer which do not require increases in premium rates or reductions of coverage, such benefits shall also be afforded to all prior policyholders paying the same rates.
Loss Settlement		
Proof of Loss forms	KRS 304.14-270	Insurers shall furnish proof of loss forms upon written request of any person.
Claim payment offset by premium	KRS 304.12-230(5), (6), (8)	Any attempt by a carrier to offset the amount it owes on a claim by the amount of premium an insured owes could be an unfair denial of a claim. The insured has a reasonable expectation that if the claim is covered, coverage will be provided up to the limits of the policy.
Time for payment of claims	KRS 304.12-235	Claims to be paid in 30 days or interest owed.
RATE and RULE MANUAL		
Advisory Organizations and Statistical Agents		
Adopting by reference, Blanket reference or Filing authorization	KRS 304.13-051, KRS 304.13-061, KRS 304.13-121, 806 KAR 13:150, Bulletin 2001-3	<p>When an insurer chooses to adopt one or more specific filings of an AO or SA, it shall do so in accordance with the usual filing procedures and shall clearly identify which filing(s) it is adopting. Reference to items must always be made using the AO or SA filing reference number, not the circular number. Adoptions of rules more than 2 years old shall include copies of the rules for review for current compliance.</p> <p>When an insurer chooses to adopt ALL of the loss costs and/or rules of an AO or SA, it may either provide written authorization to AO or SA, who must in turn file the authorization with the department, or the insurer must file written notice of "blanket reference adoption" with the department that it is adopting by reference all of the current and future filings by the AO or SA.</p> <p>Be watchful of loss adjustment expenses already included in AO or SA loss cost filings. Duplication of those expenses is not permitted.</p>
Delaying adoption or non-adoption	KRS 304.13-051, KRS 304.13-061, KRS 304.13-121, 806 KAR 13:150, Bulletin 2001-3	When an insurer has previously adopted all an AO's loss costs and rules and chooses to delay the effective date of a new release, the insurer may submit a letter and specify an adoption date within 6 months of the advisory effective dates. A second letter may be submitted with a new date within one year from the original advisory effective date. If the insurer will not adopt within one year, a complete filing is required to non-adopt. Insurers will not be permitted to delay adoption or non-adopt releases bringing rules into compliance without making similar independent changes bringing their rules into compliance.
Filing Standards		
Rates & rate information	KRS 304.13-051, 057, 061 Bulletin 92-6	Use & File. Every insurer shall file rates and supplementary rate information to be used in Kentucky. <u>No insurer shall place into effect any rates, manuals, or underwriting rules which it proposes if it results in a increase or decrease of more than 25% from its existing rates for any classification of risks in any of its rating territories within a 12-month period of time.</u> Any insurer that proposes such a large increase or decrease shall file under the "Prior Approval" category.
Rates & rate information	KRS 304.13-051, 057, 061 and 806 KAR 13:110	<p>Prior Approval. Every insurer shall file rates and supplementary rate information to be used in Kentucky. Any insurer that proposes <u>an increase or decrease of more than 25%</u> shall file all its rates and supplementary rating information which shall not become effective until approved by the Commissioner. The waiting period for filings is thirty days before it becomes effective, which may be extended for an additional period not to exceed 30 days if written notice is given within the waiting period to the insurer which made the filing that additional time is needed for consideration of the filing. The filing should include supporting documentation to aid in the review process.</p> <ul style="list-style-type: none"> • rate level indications • loss ratio information • prospective expense information • rate impact information • information regarding policies with the greatest individual impacts including distribution information by impact level
Rating Manuals & Underwriting Rules	KRS 304.13-051	All manuals and underwriting rules must be filed within 15 days of the effective date. Manuals, rules, and guidelines must be adhered to until amended. To the extent underwriting guidelines regarding the bases on which risks are acceptable are considered proprietary and confidential, it must be clearly marked on the filing and an explanation of the reason(s) the information is proprietary and confidential must be included. Information relative to premium determination is never propriety. Filings disapproved may not be used until a new filing is submitted with all appropriate fees and forms.

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Filing document set	KRS 304.13-051, 806 KAR 13:150, Bulletin 2001-3	<p>Filings must be submitted with two (2) full document sets and three (3) transmittal documents, per insurer (except where group filing is being made), per line of insurance. Each document set must contain the following properly completed forms and information:</p> <ul style="list-style-type: none"> • F-1A P&C per line of insurance and per insurer (except only one is needed when group filing is being made) • F-1G P&C where group filing is being made • The company's transmittal document setting forth the changes • S-1, S-3, LC-1, LC-2 as necessary • The company's documents that are being revised/submitted <p>Each filing must also contain filing fees per company per line of business and a self-addressed, stamped envelope, even when group filing is being made. Once a filing is acted upon by the department, it may be amended only by submitting a complete new filing.</p>
Fees Collected in Advance	KRS 304.4-010	Fees shall be collected in advance or within 15 days if the filing is submitted electronically.
Retaliatory Provision	KRS 304.3-270	When fees, taxes, fines, etc. charged by the state of domicile are in excess of Kentucky fees, then the domicile state's fees apply.
General Rates and Rules		
Premium defined; fees are included	KRS 304.14-030 & Bulletin 94-3	Premium is the consideration for insurance, by whatever name called. Any assessment or any membership, policy, survey, inspection, service, reinstatement, cancellation or similar fee or other charge in consideration for an insurance contract is deemed part of the premium.
Illegal dealing in premium	KRS 304.12-190	No person shall charge for insurance not provided nor charge any amount in excess of that expended for insurance nor knowingly fail to refund any charge for insurance in excess of the amount actually expended for insurance. Unearned premium shall be refunded upon the request of the insured, even if nominal. Minimum earned premiums and fully earned fees such as policy, membership, reinstatement, cancellation, etc. may be used only when the remaining premium is refunded prorata or under other circumstances with support.
Grouping for preferential	806 KAR 14:090	Grouping of persons or risks for preferential treatment in insurance rates or forms is prohibited unless filed and approved.
Unfair discrimination prohibited	KRS 304.12-080, 806 KAR 14:090	Actuarial evidence of difference in risk or expenses may be required.
Rebates prohibited	KRS 304.12-090 and 100	
Flexible commissions prohibited	KRS 304.12-080 and 090	
Illegal inducements to buy insurance	KRS 304.12-110	Some discounts may be illegal inducements.
Renewal, Nonrenewal, Cancellation, Declination		
Notice of renewal premiums	KRS 304.20-035	Must give at least 30 days notice, 7 days in the case of a policy with a policy period of 30 days or less, before the end of the policy period.
Premium increase 25%	KRS 304.20-320(4)	No insurer shall increase the premium more than 25 % of the premium for the preceding policy term for like coverage and like risks unless at least 75 days before the end of the policy period the insurer mails or delivers to the named insured at the last known address a notice for the renewal
Notice at policy expiration	KRS 304.20-320(3)(c)	When a policy terminates because the renewal premium was not received on or before the due date, the insurer shall mail a notice within 15 days stating that the policy was not renewed. Notice shall include the date on which the coverage ceased to exist.
Reasons permitted for cancellation	KRS 304.20-310(2) and 330, KRS 304.14-030	<p>Mid-term cancellations of policies in force more than 60 days can only occur for one of seven reasons:</p> <ul style="list-style-type: none"> • Non-payment of premium • Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured. • Discovery of willful or reckless acts or omissions on the part of the named insured that increase any hazard insured against. • Occurrence of a change in the risk that substantially increases any hazard insured against. • Violation of local fire, health, safety, building or construction regulation or ordinance with respect to any insured property. • The insurer is unable to reinsure the risk. • Determination by the commissioner that the continuation of the policy would place the insurer in violation of the KY insurance code or regulations of the commissioner.
Notices of cancellation and nonrenewal	KRS 304.20-310 and 320, 806 KAR 20-010 Sections 3 and 5,	14 days in advance of effective date of cancellation if for non-payment of premium or if policy in force 60 days or less. 75 days notice for nonrenewal and all other cancellations. Termination is a cancellation or nonrenewal of coverage in whole or in part. Movement between companies is a termination and must be given 75 days notice. If 75 day notice is not given, coverage shall be deemed to be renewed for the ensuing policy period upon payment of premium under the same terms and condition. Specific reason(s) must be given in the notices.

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Declination or termination prohibited	KRS 304.20-310(3) and (4) and 340, KRS 304.12-085	The declination or termination by an insurer or agent is prohibited if the declination or termination is based solely upon the: <ul style="list-style-type: none"> • Race, color, religion, nationality, national origin, ethnic group, age, sex or marital status of the applicant or named insured • Lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer which limits its market to one lawful occupation or profession or to several related lawful occupations or professions or to an insurer that does not provide the kind of insurance sought by the applicant • Fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured • Fact that the applicant or named insured previously obtained insurance through a residual market mechanism. • Fact that the insured has previously obtained property or casualty insurance from a carrier providing nonstandard coverage or • Fact that the insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person
Taxes and Fees		
Installment fees and delinquent installment fees	KRS 304.13-051, 806 KAR 13:090, KRS 304.30-090 and 100, 806 KAR 30:050	Shall be no less favorable than those permitted by premium finance companies. Maximum of \$15 fee plus 12% per annum installment fees. Delinquent fee of \$1 to maximum of 5% of the amount of the delinquent installment late 5 days or more.
Late fees on entire premium	KRS 304.14-030	Maximum of 18% per annum if premium late 30 days or more. Such charges shall be clearly indicated on all bills and statements of account.
Reinstatement fee or change in coverage on expired policy prohibited	KRS 304.20-037	If an insurer has indicated its willingness to renew a policy by mailing to the named insured a notice of the renewal premium and the amount was not paid, the insurer may, in the absence of an increase in the risk insured, reinstate the policy upon the written request of the insured if the request is made within thirty (30) days following expiration. The insurer shall not require, as a condition for reinstatement, an increase in coverage amount or the premium charge above that which was stated in its renewal offer.
Fully earned MGA policy fees for underwriting expenses	KRS 304.13-171	The fee shall only be collected if coverage is provided and shall be deemed fully earned. The fee shall be submitted to the commissioner for prior approval.
Local government premium tax	KRS 91A.080, 806 KAR 2:096 and 097, annual July Bulletin	If filed, they must be current and accurate. Must be disclosed on title page of policy issued for the first time when the tax is charged.
Premium surcharge	KRS 136.392, 806 KAR 2:100	Must be disclosed on declarations page of policy issued for the first time when the surcharge is charged.
Warranty Contract		
Filing not required	KRS 304.14-120, KRS 304.5-070(1)(p)	But if it is filed by the underlying insurer, it will be reviewed for compliance with applicable laws and regulations and will be approved or disapproved. ONLY contracts covering only defects in material and workmanship are eligible for exemption from the definition of insurance.
Lienholder clause required	KRS 304.5-070(1)(p)	
Name and address of insurer and "cut through" language required	KRS 304.5-070(1)(p)	The warranty contract shall conspicuously state the name and address of the underlying insurer. It shall also include a statement that the contract holder shall be entitled to make a direct claim against the insurer upon the failure of the maker to pay any claim within 60 days of filing proof of loss with the maker.
"Mechanical breakdown" definition	KRS 304.5-070(1)(p)	Contracts covering more than defects in material and workmanship are not eligible for exemption from the definition of insurance. Coverage for breakdown ultimately caused by wear and tear is not eligible for exemption.
Incidental coverages permitted when the losses result from defects in material and workmanship	806 KAR 5:050	Towing, rental, trip interruption, etc. may be included so long as they are payable only when resulting from a defect in material and workmanship. Examples of incidental coverages usually ineligible for exemption include tire repair and replacement, lockout services, theft deterrent, fluid replacement, battery service, etc. because these usually result from general maintenance, wear and tear, road hazards or third party intervention included with definition of vehicle insurance at KRS 304.5-070(1)(a) and for which there is no exemption.
Incidental to the sale or lease of the motor vehicle	KRS 304.5-070(1)(p), 806 KAR 5-050	Only authorized insurers, licensed motor vehicle dealers or third party warranty companies issuing through dealers may sell service contracts/extended warranties. The application or contract should include the name of the dealer selling/leasing the vehicle.